

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PETER JOSHUA LABRECK,

Plaintiff, CIVIL ACTION NO. 11-11328

v.

HONORABLE JOHN CORBETT O'MEARA
MAGISTRATE JUDGE MARK A. RANDON

PAUL ANTHONY ESPOSITO, et al.,

Defendants.

**REPORT AND RECOMMENDATION TO DENY PLAINTIFF'S
MOTION FOR DEFAULT JUDGMENT**

This matter is before the Court on Plaintiff's motion for entry of default judgment against Paul Anthony Esposito (Dkt. No. 49). Plaintiff says Esposito failed to "plead or otherwise defend within the prescribed time[.]" Because Esposito: (1) filed a responsive pleading on July 18, 2013; and, (2) a prisoner cannot obtain a default judgment pursuant to 42 U.S.C. §1997e(g)(1), this Magistrate Judge **RECOMMENDS** that Plaintiff's motion be **DENIED**.

The parties to this action may object to and seek review of this Report and Recommendation, but are required to act within fourteen (14) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of HHS*, 932 F.2d 505, 508 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981). The filing of objections which raise some issues, but fail to raise others with specificity, will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec'y of HHS*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v.*

Detroit Fed'n of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Within fourteen (14) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be no more than 20 pages in length unless, by motion and order, the page limit is extended by the court. The response shall address each issue contained within the objections specifically and in the same order raised.

s/Mark A. Randon
MARK A. RANDON
UNITED STATES MAGISTRATE JUDGE

Dated: July 24, 2013

Certificate of Service

I hereby certify that a copy of the foregoing document was served on the parties of record on this date, July 24, 2013, by electronic and/or first class U.S. mail.

s/Eddrey Butts
Case Manager to Magistrate Judge Mark A. Randon